(3)

(1)

Single Bench

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR

WRIT PETITON NO. 3723 2004,

PETITIONER:

Deendayal Patel
S/O- Mansha ram Patel
Aged about 41 years,
Head Constable
D.C.R.B. Beejapur
Distt- Dantewada (C.G.)

P.N. No. 3661/04
Presented by Shri N. Rathore
Dated 21/12/04

VERSUS

RESPONDENTS:-

1) State of Chhattisgarh
Through: Secretary,
Department of Home (Police)
Raipur (C.G.)

2) Director General of Police,
Police Head Quarter Raipur
D.K.S Bhawan
Raipur (C.G.)

3) Superintendent of Police
Dantewada
Distt-Dantewada (C.G.)

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Clerk to A.G. Bilaspur

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

1) PARTICULSRS OF THE PETITIONER:-
As stated in cause title above.

2) PARTICULSRS OF THE RESPONDENTS:-
As stated above in cause title.

(40)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 3723 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -1-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	01.08.2005	

Shri Hemant Gupta, counsel for the petitioner.

Shri Pankaj Shrivastava, Panel Lawyer for the State/respondents.

Heard finally with the consent of the parties.

The petitioner has filed this writ petition for a direction to relieve him in pursuance of his transfer order dated 02.8.2004 (Annexure P/1).

It is submitted by the learned counsel for the petitioner that though the petitioner was transferred by the aforesaid order dated 02.8.2004 from Beejapur to Raipur but he has not been relieved so far. He makes this statement that the impugned order of transfer dated 02.8.2004 has not been cancelled or varied in any manner. The same is in existence and the petitioner be relieved immediately.

The return has been filed on 22.01.2005. It has been contended that presently Beejapur District is facing shortage of Police force and the Superintendent of Police, Dantewada had earlier written a letter to the Inspector General of Police, Bastar for providing adequate police force. It has further been contended that apart from the above, due to operation of code of conduct, firstly during the Municipal elections and thereafter the Panchayat elections, the petitioner could not be relieved in time. It has also been contended that many persons from Police force of Bastar

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XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

range have been allocated to the State of Madhya Pradesh and they have been relieved for joining in M.P. Learned counsel for the respondents submits that all this caused hindrance in relieving of the petitioner in time.

I have heard learned counsel for the parties and have also perused the records of the writ petition.

Admittedly, the impugned order of transfer was passed on 02.8.2004, i.e., much after the formation of the State of Chhattisgarh. The scenario regarding availability of the force in each district of the State was clear on the date of passing of the order of transfer. It was in the knowledge of the transferring authorities that how much force is available in which district. It is presumed that after judging the scenario at a glance on the relevant date of transfer, the order of transfer was passed by the Home Department of the State. Therefore, the non-availability of adequate force and non-relieving of the petitioner on this ground does not seem to be reasonable. When after looking into the factual position so far as availability of the force is concerned, an order of transfer was passed, therefore, at the time of relieving, a defence of scarcity of the force cannot be taken. If adequate force was not available as on 02.8.2004 the order of transfer should not have been passed. There is no merit in this objection and the same is negatived.

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 3723 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	So far as the other grounds like Municipal and Panchayat elections are concerned, now those grounds are not available because admittedly those elections are over. Considering the over all facts and circumstances of this case, I deem it proper to pass a conditional order in this writ petition. It is hereby directed that if the transfer of the petitioner has not been varied or cancelled and he has not been relieved so far, then he shall be relieved from Beejapur in pursuance of his transfer order dated 02.8.2004 (Annexure P/1) within a period of 15 days from the date of production of certified copy of this order before the concerned authority of the respondents. With the aforesaid directions, the petition stands finally disposed of. No costs. Sd/- Sunil Kumar Sinha Judge	